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9 **UNITED STATES BANKRUPTCY COURT**
10 **NORTHERN DISTRICT OF CALIFORNIA**
SAN FRANCISCO DIVISION

11 In re:

12 **PG&E CORPORATION,**

13 **- and -**

14 **PACIFIC GAS AND ELECTRIC COMPANY,**

15 **Debtors.**

Case No. 19-30088 (DM)

Chapter 11

(Lead Case)

(Jointly Administered)

**STIPULATION MODIFYING PLAN
INJUNCTION (MENDOCINO
COUNTY INLAND WATER AND
POWER COMMISSION)**

16 ☐ Affects PG&E Corporation

17 ☐ Affects Pacific Gas and Electric Company

☒ Affects both Debtors

18 ** All papers shall be filed in the Lead Case,*
19 *No. 19-30088 (DM).*

1 PG&E Corporation (“**PG&E Corp.**”) and Pacific Gas and Electric Company (the
2 “**Utility**”), as debtors and reorganized debtors (collectively, the “**Debtors**” and as reorganized
3 pursuant to the Plan,¹ the “**Reorganized Debtors**”) in the above-captioned cases (the “**Chapter**
4 **11 Cases**”), on the one hand, and Mendocino County Inland Water and Power Commission
5 (“**MCIWPC**”), on the other hand (collectively, the “**Parties**”), by and through their respective
6 counsel, hereby stipulate and agree as follows:

7 **RECITALS**

8 A. On January 29, 2019 (the “**Petition Date**”), the Debtors commenced these Chapter
9 11 Cases in the United States Bankruptcy Court for the Northern District of California (the
10 “**Bankruptcy Court**”). The Chapter 11 Cases are being jointly administered for procedural
11 purposes only pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure.

12 B. On October 21, 2019, MCIWPC filed Proof of Claim No. 86469 against the Utility
13 (the “**Proof of Claim**”) asserting a claim in excess of \$100,000,000 in connection with the Potter
14 Valley Hydroelectric Project, FERC Project No. 77 (the “**Project**”) located in Mendocino and
15 Lake Counties, alleging, among other things, a claim for anticipatory breach of that certain water
16 delivery agreement between the Utility and Potter Valley Irrigation District dated March 30, 1936
17 (the “**Contract**”), and a claim for waste.

18 C. By Order dated June 20, 2020 [Dkt. No. 8053] (the “**Confirmation Order**”), the
19 Bankruptcy Court confirmed the Plan. The Effective Date of the Plan occurred on July 1, 2020.
20 *See* Dkt. No. 8252.

21 D. Sections 10.5 and 10.6 of the Plan and Paragraphs 51 and 52 of the Confirmation
22 Order establish the “**Plan Injunction**,” which supersedes the automatic stay in most respects and
23 expressly prohibits (1) commencing, conducting, or continuing in any manner, directly or
24 indirectly, any suit, action, or other proceeding of any kind with respect to any pre-petition claims

25 _____
26 ¹ Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in
27 the *Debtors’ and Shareholder Proponents’ Joint Chapter 11 Plan of Reorganization Dated June*
28 *19, 2020* (as may be further modified, amended or supplemented from time to time, and together
with any exhibits or schedules thereto, the “**Plan**”).

1 against the Debtors or Reorganized Debtors, and (2) any effort to enforce, collect or recover on any
2 judgment based on any pre-petition claims.

3 E. Section 2.1 of the Plan provides as follows: “any Allowed Administrative Expense
4 Claim that is not due and payable prior to the Effective Date, shall be paid by the Debtors or the
5 Reorganized Debtors, as applicable, in the ordinary course of business, consistent with past practice
6 and in accordance with the terms and subject to the conditions of any orders or agreements
7 governing, instruments evidencing, or other documents establishing, such liabilities.”

8 F. Section 1.62 of the Plan defines Environmental Claim as “any Claim under any
9 Environmental Law²; provided, however, that Environmental Claims shall not include (x) any Claim
10 for personal injury (including, but not limited to, sickness, disease or death) or (y) any Fire Claim.”
11 Utility Environmental Claims are any Environmental Claims against the Utility. Plan § 1.217.
12 Section 4.30 of the Plan provides that “[o]n and after the Effective Date, each holder of a Utility
13 Environmental Claim shall be entitled to pursue its Claim against Reorganized Utility as if the
14 Chapter 11 Cases had not been commenced, and each Environmental Performance Obligation³
15 against Utility shall also survive the Effective Date as if the Chapter 11 Cases had not been
16 commenced.”

17 G. On September 3, 2020, the Reorganized Debtors objected to the Claim in the
18 *Reorganized Debtors’ Eighth Omnibus Objection to Claims (No Liability Claims)* [Dkt. No. 8983]
19 (the “**Omnibus Objection**”). The hearing on the Omnibus Objection with respect to the Claim has
20 been continued by agreement of the Parties to August 25, 2021.

21
22 ² Pursuant to Section 1.63 of the Plan, “**Environmental Law**” means all federal, state and local
23 statutes, regulations, ordinances and similar provisions having the force or effect of law, all judicial
24 and administrative judgments, orders, agreements, permits, licenses, tariffs, determinations, and all
25 common law, in each case concerning, in whole or in part, pollution, hazardous substances or waste,
water quality, conservation or other protection of the environment, human health, safety, and
welfare.

26 ³ Pursuant to Section 1.64 of the Plan, “**Environmental Performance Obligation**” means an
27 obligation or requirement arising from any consent decree, permit, license, tariff, Cause of Action,
28 agreement, injunction, cleanup and abatement order, cease and desist order, or any other
administrative or judicial judgment, order or decree under any Environmental Law that is not a
Claim and does not arise from any Fire.

1 **NOW, THEREFORE, UPON THE FOREGOING RECITALS, WHICH ARE**
2 **INCORPORATED AS THOUGH FULLY SET FORTH HEREIN, IT HEREBY IS**
3 **STIPULATED AND AGREED, BY AND BETWEEN THE PARTIES, THROUGH THE**
4 **UNDERSIGNED, AND THE PARTIES JOINTLY REQUEST THE BANKRUPTCY COURT**
5 **TO ORDER, THAT:**

6 1. Upon the date of the entry of an order approving this Stipulation, the Plan Injunction
7 and any potentially applicable Plan provision is modified, to the extent necessary, to permit
8 MCIWPC to pursue the claims asserted or described in the Proof of Claim (including the rights
9 preserved and/or reserved in the Proof of Claim) and any remedies associated therewith outside of
10 these Chapter 11 Cases as if the Chapter 11 Cases had not been commenced.

11 2. Nothing herein is intended, nor shall it be construed, to be a waiver or relinquishment
12 by the Reorganized Debtors or MCIWPC of any rights, claims, causes of action, rights of setoff,
13 counter-claims, objections, arguments, or any legal or equitable defenses (including any rights,
14 claims, causes of action, rights of setoff, counter-claims, objections, arguments, or any legal or
15 equitable defenses that the Parties had immediately prior to the Petition Date), against or with
16 respect to MCIWPC's claims or otherwise relating to or in connection with the Project or the
17 Contract, other than the Reorganized Debtors hereby waive the effect of any applicable statute of
18 limitation or repose that may have been accruing or accrued from the Petition Date until the date of
19 entry of an order approving this Stipulation ("**Tolled Period**"). For further clarity, the Reorganized
20 Debtors agree that the Tolled Period shall not be included in the calculation of any applicable
21 statutes of limitation or repose, and hereby waive the right to include the Tolled Period in the
22 calculation of any such applicable time period.

23 3. Upon the date of the entry of an order approving this Stipulation, the Reorganized
24 Debtors or their agents shall be authorized to adjust the claims register to reflect the expungement of
25 the Proof of Claim.

26 4. In the event that the terms of this Stipulation are not approved by the Bankruptcy
27 Court, it shall be null and void and have no force or effect, and the Parties agree that, in such
28 circumstances, this Stipulation (including statements in the Recitals) shall be of no evidentiary value
 whatsoever in any proceedings.

1 5. This Stipulation shall be binding on the Parties and each of their successors in
2 interest.

3 6. This Stipulation shall constitute the entire agreement and understanding of the Parties
4 relating to the subject matter hereof and supersedes all prior agreements and understandings relating
5 to the subject matter hereof.

6 7. This Stipulation may be executed in counterparts, each of which shall be deemed an
7 original but all of which together shall constitute one and the same agreement.

8 8. The Bankruptcy Court shall retain jurisdiction to resolve any disputes or
9 controversies arising from this Stipulation or any Order approving the terms of this Stipulation.

11 Dated: September 9, 2021

Dated: September 9, 2021

12 KELLER BENVENUTTI KIM LLP

DOWNEY BRAND LLP

14 /s/ Jane Kim

/s/ Jamie P. Dreher

Jane Kim

Jamie P. Dreher

15 *Attorneys for Debtors*
16 *and Reorganized Debtors*

Attorneys for Mendocino County Inland
Water and Power Commission